

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 17176 of 2005

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THURSDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FIVE

Between:

Mr. Gurram Krishnaiah, S/o. Venkata Swamy
R/o. H.No. 6-2-117, Behind ZP Quarters, Khammam, Khammam District,

..... PETITIONER

AND

- 1 The Proh. & Excise Superintendent, Khammam District, at Khammam,
- 2 The Commissioner of Proh. & Excise Government of Andhra Pradesh, at Hyderabad,

.....RESPONDENTS

The Court, at the stage of admission, made the following:

Oral order:-

The petitioner is aggrieved by the order of the 1st respondent dated 01-08-2005 whereby the said authority has rejected the petitioner's application for grant of 2B licence (for establishing a Bar and Restaurant). According to the Andhra Pradesh Excise (Grant of License of Selling By Bar and Conditions of License) Rules, 2005 (for short 'the Rules'), an application for grant of a Bar license should be in the specified form and addressed to the Prohibition and Excise Superintendent. The said authority is empowered to make such inquiry, as the authority may think necessary as to the *bona fides* of the applicant and after verifying the particulars furnished in the application and examining the suitability of premises, the said authority is required to send up a recommendation to the Commissioner of Prohibition and Excise along with a report. It is the Commissioner of Prohibition and Excise, who is the empowered authority, to grant or refuse the license. Clearly, qua the phraseology of Rule 5 of the Rules, the Excise Superintendent is incompetent to grant or decline a 2B license.

By the impugned order, the 1st respondent has himself rejected the application of the petitioner for grant of a 2B license, which is a decision that is incompetent by the

1st respondent. Accordingly, the order of the 1st respondent dated 01-08-2005 is set aside. The 1st respondent shall now consider the application of the petitioner for grant of a 2B license and record his recommendations either for a grant or refusal and forward the same to the 2nd respondent, who shall then pass such orders in accordance with law in his statutory discretion, as is appropriate. Nothing in this order shall be construed as an expression by this court on the merits of the reasons recorded by the 1st respondent as to the suitability or otherwise of the premises proposed by the petitioner for setting up a Bar and restaurant. The order of the 1st respondent has been set aside by this judgment only on the ground that the 1st respondent was incompetent to have conclusively determined to reject the petitioner's application for grant of license, as he was only a recommending authority to the 2nd respondent. The writ petition is disposed of at the stage of admission after hearing the learned Government Pleader for Excise. No costs.

GODA RAGHURAM, J

Dt. 04-08-2005

Pvks/*

Nb:- Furnish c.c. in two days.

B/o

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